The Role of the “Historical Prologue” in the Hittite Vassal Treaties: An Early Experiment in Securing Treaty Compliance

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I.

The earliest documents that attest to conceptions of what may be called interstate law in the Ancient Near East date to the 25th-24th centuries BCE. These early documents refer to agreements concluded between two rival city-states, as well as to repeated violations of these agreements. They also inform us that already at this early historical period, interstate relations were conceived by the people of the Ancient Near East as being under the supervision and sanction of the gods. The earliest documented means used by those people to ensure the punishment of the violator of such a treaty were the oath and the curse. The punishments expressed by the curse were evidently believed to fall automatically and immediately on the one who violated the agreement. These means, howsoever disappointing, continued to play a role in the interstate relations and treaties of the Ancient Near East down to at least the seventh century BCE.

Still, as early as the late 18th century BCE we have from Syria a subordination grant treaty that heralds a new approach to the question of how to secure treaty compliance by the subordinate party. Its drafters seem to view the curse as a device of punishment, which was to become effective only by a verdict of the divine judges, following a trail in the course of which the arguments and claims of the parties were presented. Hence, besides relying on the curses, the drafters on behalf of the suzerain were also concerned how to secure their legal and political interests in the divine court of law if and when the subordinate party should violate the treaty. In response to this concern, while maintaining the oaths and curses, these drafters introduced a new section into the inter-

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1 For these early inscriptions, see J. S. Cooper, *Sumerian and Akkadian Royal Inscriptions*, Vol. I: *Presargonic Inscriptions*, New Haven 1986, and see there particularly inscription La. 5.1, the cone inscription of Enmetena ensi Lagash (pp. 54-57).

2 See particularly the inscription of the “Vulture Stele” of Eannatum: Cooper, *op. cit.*, pp. 33-39, inscription La. 3.1.

3 See below in section V.

state treaty, the so-called “historical prologue”. Yet, although this section appeared already in the 18th century, it is only with the Hittite documents of the 15th-13th centuries that we find it again.

The purpose of this article is to bring to the attention of the scholarly community dealing with the history of international law the results of a long-time study made by the present writer of this section.

II.

Apart from the above-mentioned treaty from northern Syria of the late 18th century BCE, the “historical prologue” is known to us only from Hittite documents of the 15th-13th centuries BCE. In these documents, it is found only in subordination treaties (the so-called “vassal treaties” or “suzerain treaties”) and some edicts – documents drawn up by a suzerain for his subordinate kings or communities. These prologues, which could range in length from one sentence to several paragraphs, are usually described in the research literature as presenting a review of the past political relations between the parties to the treaty. Yet, not every prologue has a review of the past relations between

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5 No general agreement exists among scholars as to the name of this section. Other terms used are: “Vorgeschichte”, “Antecedent History”, “Historical Introduction”, “Preamble”, “Préambule historique”, “Exposé”. I prefer to name it just “prologue”.
7 The basic edition of the Hittite treaties written in Akkadian is that of Ernst F. Weidner, Politische Dokumente aus Kleinasien (Boghazköy Studien 8 & 9), Leipzig 1923 (=PD), and the edition of the Hittite treaties written in Hittite is that of J. Friedrich, “Staatsverträge des Hatti-Reiches in Hethitischer Sprache”, Mitteilungen der vorderasiatisch-ägyptischen Gesellschaft, 31, 1 (1926); 34, 1 (1930). The most recent English translation of almost all of the treaties and edicts treated in this article is to be found in Gary Beckman, Hittite Diplomatic Texts, Second Edition (edited by H. A. Hoffner), Atlanta, Georgia 1999 (henceforth = Beckman). The Hittite documents referred to here will be designated according to their number in Laroche’s Catalogue des textes hittites, Paris 1971 (=CTH), which provides the basic information as to their cuneiform edition and to their transliteration and translation edition if available. This will be followed by their number in Beckman’s recent translation, if available, or else by their most recent edition if not mentioned in Laroche’s Catalogue. Additional abbreviations used here are: CAD – The Assyrian Dictionary of the Oriental Institute of the University of Chicago, Chicago 1956–; KBo – Keilschrifttexte aus Boghazköy, Leipzig/Berlin 1923–; KUB – Keilinschriftenkunde aus Boghazköy, Berlin 1921–; RS – Inventory numbers of tablets excavated in Ras Shamra = ancient Ugarit; StBoT – StBlT Beheft 1 – H. Otten, Die Bronzetafel aus Boğazköy – Ein Staatsvertrag Tuthalijas IV. (Studien zu den Boğazköy-Texten, Beheft 1), Wiesbaden 1988.
8 This is the case with the Aziru treaty, CTH 49; Beckman no. 5.